IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6148 OF 2005

The State of Maharashtra ...Applicant

vs.

Subhash Dada Patil and others ...Respondents

Mr.A.S.Shitole, A.P.P.for the Applicant
None for the Respondents.

CORAM: A.S.OKA,J.
DATE : NOVEMBER 9,2006.

P.C.:

1. Heard learned A.P.P. for the Applicant in support of the prayer for grant of leave. The acquittal of the Respondents is for offence under section 324 read with section 34 of the Indian Penal Code.

2. The Respondents were convicted by the Trial Court and order of acquittal has been passed in Appeal. Perusal of the Judgment of the Appellate Court shows that the evidence of each and every prosecution witness has been considered and scanned by the Appellate Court. The Appellate Court came to the conclusion that admittedly independent wittiness were available on the spot but they have not been examined by the prosecution. The learned Judge observed that the evidence was led only of the interested witnesses. There was a prior enmity between the said witnesses and the accused persons. After appreciation of the evidence, the finding of the learned Judge is that the evidence of interested witnesses was totally inconsistent.

3. The Panch Witness of the scene of offence did not support the prosecution. The learned Judge observed that the Trial Court committed an error by admitting the said Panchnama in evidence. The learned Judge found that even the evidence of interested witnesses was inconsistent with the medical evidence on record.

4. The view taken by the Appellate Court is a possible view which could have been taken on the basis of evidence on record. No case is made out for grant of leave. Application is rejected.

JUDGE